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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,768	07/06/2000	William P. Alberth JR.	CS10557	5526

7590 09/08/2006

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EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2618

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,768

Applicant(s)

ALBERTH ET AL.

Examiner

Tuan A. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-10,14-24,27 and 30 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,11-13,26,28,29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is partially persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-2, 13, 26 and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Greene (6,185,410).

Regarding claim 26, Greene discloses a cordless (wireless) device (See fig. 2) comprising: a keypad 21, 23; a transceiver 33; a memory 35, a message stored in the memory 35; and a controller 32 (See figs. 2-3 and col. 4 lines 1-40) programmed to: a) initiate a call from the cordless device in response to a key stroke (See fig. 10 and col. 7 lines 65-67); initiate a timer 36 when the call is established (connecting to a selected telephone number) (See fig. 10 and col. 8 lines 45-48); and transmit the stored message through the transceiver (the stored message is transmitted to a second selected telephone number) after a predetermined time has elapsed on the timer 36 from when the call was established (See fig. 10 and col. 8 lines 21-53) (The cycle

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repeats for the next undialed number, in which the prerecorded message is delivered to the next number. Therefore, the claimed sequence is taught: the message (of the second iteration) is transmitted after the time (of the first iteration) has elapsed).

Claim 1 is rejected for the same reasons as set forth in claim 26, as method.

Regarding claim 2, Greene discloses as cited in claim 1. Since Greene does suggest a 90-second timing window is activate to allow two-way communication between the user who has activated the emergency and the selected telephone number (widely known as 911, police or hospital) (See col. 8 lines 40-48), it is widely known that position data such as address of the user must be communicated to the selected telephone number in order to get help.

Regarding claim 28, Greene discloses as cited in claim 1. Greene further discloses terminate transmission of the stored message when a voice signal is pick-up by a microphone during the 90-second timing window and no other selected numbers remain to be dialed (See fig. 10 and col. 8 lines 48-53).

Regarding claim 29, Greene discloses as cited in claim 1. Greene further discloses terminate transmission of the stored message when a key of the cordless is activated (See fig. 10 and col. 8 lines 48-53).

Claim 13 is rejected for the same reasons as set forth in claim 29, as method.

2. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alpert (5,742,666) in view of Tanaka (JP 08251313).

Regarding claims 4 and 12, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the wireless device (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15); sending the stored message from the wireless device after a call is established (See col. 5 lines 15-20). However, Alpert does not mention the steps of monitoring the microphone for audio signals and terminating sending the stored message when an audio signal is picked-up by the microphone of the wireless device. Tanaka suggests an apparatus 1 capable of transmitting an audio signal and a data signal to a transmission line wherein the apparatus stops transmission of data signal when the audio signal is detected by a tone voice detector (See fig. 1 and the English Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the suggestion of Tanaka in reconfiguring the wireless device as disclosed by Alpert with the tone voice detector such that the device stops transmission of the stored message when an audio signal (a voice signal) is detected for the advantage of allowing the user to speak directly to the called party when the user is capable.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alpert (5,742,666) in view of Ebata et al. (6,487,542).

Regarding claim 11, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the

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wireless device (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15); sending the stored message from the wireless device after a call is established (See col. 5 lines 15-20). However, Alpert does not mention that the data message including a digital signature. Data message having digital signature is well known in the art as suggested by Ebata (See col. 10 lines 5-11). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included digital signature, as Ebata's suggestion, into the transmitted data message as disclosed by Alpert in order to enhance the validity of the message.

Allowable Subject Matter

1. Claims 5-10, 14-24, 27 and 30 are allowed.

The following is an examiner's statement of reasons for allowance:

The reasons for allowance of claims 5-10, 14-24, 27 and 30 have been indicated in Office Actions mailed on 04/23/2003 and 10/09/2003 respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 1-2, 4, 11-13, 26 and 28-29 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant argued that Tanaka does not suggest “terminate the transmission” nor “not sending” as recited in claims 4 and 12, but alternately suspends the transmission temporarily (See Appeal Brief, Argument section, page 7). In accordance to *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027- 28 (Fed. Cir. 1997), claims are given their broadest reasonable interpretation in light of supporting disclosure wherein the Applicant use the term “cancel” and the applicant fails to disclose the cancellation is permanent or temporary (See Specification page 8, third paragraph) and further the term “terminate” is defined by Dictionary.com as to halt or discontinue. Therefore by “suspend the transmission temporarily”, Tanaka does read on the claimed limitation “terminate transmission” or “not sending”.

The Applicant argued that the Examiner has failed to provide any motivation in combination Alpert with Ebata (See Appeal Brief, Argument section, page 8). The Examiner respectfully disagrees with the Applicant's argument because motivation to combine Alpert and Ebata has been provided (See rejections).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hisamura (5,678,188).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tuan Tran


Matthew D. Anderson
SPE - 2618